

## THE ROLE OF INTERNATIONAL COMPANIES IN OIL & GAS INDUSTRY\*

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### Abstract

Major International Oil Companies are known as global players. This is because their operations are not limited only to one particular country or continent. Their service is guided by local and international laws and policies. Besides, they have the moral and reputation responsibility to act as expected by the international community. Some of key challenges facing these multinational companies include; how to make money and at the sometime, how to meet the local and international obligations such as employment, training, environmental concerns, health and safety.

This paper is aiming to discuss those areas of interest. The first part looks at the role of companies which are engaged in the oil and gas industry. It deals with the environmental issues and the regulations that govern the operations of major international oil companies. The paper will also discuss the issues of local content as well as Corporate Social Responsibilities (CSR).

Focus will also be made on the Petroleum Regulatory Arrangements taking into accounts the viewpoints of the partner Oil Company or contractor and the Government. The last part of the paper deals with health, safety and environmental standards. The paper ends with recommendations and the way forward.

### The Role of various Organizations involved in the oil and gas industry

Natural gas Companies operating in oil & gas sector are very important in many ways. They contribute significantly to the world economies and their economic role is absolutely important. Today, the world economies depend greatly on oil and gas resources. Oil is believed to be the generator of life of modern civilization. If there is no fuel or oil, the international development may slow down in terms of technological development. For instance, fuel is used in mechanized transportation equipment like automobiles, trucks, airplanes, trains, ships, farm equipment and in the military.

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Oil is also the primary source of many of the chemicals that are essential to modern life. This highlights the important contribution of the oil companies in world development. Most of the African or so-called “Third World Countries” or “Developing Nations” are less developed partly because of lack of energy<sup>1</sup>. The development in China in the recent years is attributed to the application of energy which is used in mechanized industrial sectors. However, oil and gas exploration and production is a very profitable business and dangerous at the same time.

For instance, the exploration in offshore means that staff live closely to the work place which exposes them to dangers of turbulent seas and waves offshore. Recent events have shown that offshore staffs are also exposed to other risks of blowouts, fire, platform collapse, and helicopter accidents. These accidents impact heavily on the health and safety of the industry. This is a big challenge to those in charge of regulation of health and safety standards in the offshore oil and gas sector.

In the recent years, there is a constant report of accidents which cause serious injuries to health and the environment as well as loss of financial investments and in many cases leads to fatalities. In the Gulf of Mexico and the Pacific alone, between 2007 and 2012, there was a record of 41 fatalities and 1869 injuries. That is very huge indeed.

Operators and Industry groups have however recently agreed to improve the environmental standards. There are a number of projects or schemes developed by public agencies, oil industry as well as Non-Governmental Organizations on this sector with the sole purpose to improve the environment<sup>2</sup>. Various groups including the operators play a vital role in shaping the future of the environment.

## What is required from International Oil Companies

In many developing countries where hydrocarbon is being exploited and where the host country has limited regulations and environmental laws, they should adopt international best practices by developing its legislation and regulations based on

the failures and positive results of other countries

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The areas of environmental concern should include the protection and non-pollution of people, air, water, as well as animals and plants. Without clean air, water and soil, communities would not be able to sustain themselves. As a way of managing the impact on the environment through oil and gas activities, both rules and regulations for these activities are to incorporate and use Principle 17 of the Rio Declaration and the mandatory application by the Operator to conduct an Environmental Impact Assessment (EIA). The EIA would identify and evaluate any environmental impacts that could arise from the operations of the land

based activities. Through this assessment, a long term Environmental Plan would be incorporated to monitor the country's ecosystem<sup>3</sup>. IOC should guide their operations using the UN Guiding principles on business and human rights.

### The Role of Production Sharing Contract on operation of International Oil Companies

The Production Sharing Contracts (PSC) plays a vital role in shaping the future activities on IOC in the host country. It is therefore the obligation of the host country to provide rules and regulations which are in line with the conditions of the country and the international community under the United Nations. According to the UN, state regulatory and policy functions are to meet their duty to protect, enforce laws that require business enterprises to respect human rights<sup>4</sup>. The Production Sharing Contracts (PSC) will always be based on the country's laws and more particularly defined by the petroleum legislation and tax legislation. Once an operator has been chosen, normally this will be an oil company but can sometimes be an intermediate party. The State and the Oil Company (OC) will sit down and negotiate the terms of the PSC including how the profits, royalties and expenses will be split<sup>5</sup>.

International Oil Companies are required by law to enhance money by exploiting oil production

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in any of the countries they choose to operate. At the same time, they are requested by the same law and regulation to meet some local and international standards. For instance, the

National Oil and Gas Policy for Uganda 2008 set up the following as part of the licenses requirement: The policy proclaimed that "International best practice in areas like improved oil recovery together with health, safety, and environmental standards"<sup>6</sup> must be observed. The Law also encouraged competitive licensing and national content in the subsector"<sup>7</sup>. We will discuss this in details on Local Content later in this work.

### Employment and Development as part of PSC

One of the key obligations of the International Oil Companies is the contribution to the general economic and social development of the host country. IOC are oblige through Production Sharing Agreement to pay royalty fees to the host country. They are there to create jobs for the local people, offer training and scholarships to the communities and develop roads and bridges in the areas of operations<sup>8</sup>.

### Areas of Environmental Concern in Regulating the Oil Major as Activities Operator

Oil majors as activities operators have a key role in implementing rules and regulations based on Production Sharing Contract that it signed with the host country. An operator knows better than any other body how to protect or not to the environmental impact. They have the ability to commit themselves to self-regulation. In addition, operators have the technical capacity, necessary information on the industrial sector and financial power which makes it sometimes better than the regulator<sup>9</sup>.

In the past few years, the world has witnessed a number of Oil Spills and environmental disasters which alerted most of people, and therefore government institutions had to watch closely the operations of the major international companies in oil and gas sector. In 2011 for example, Shell

Nigeria had to admit the worst oil spillages in Niger Delta where more than 40,000 Barrels of crude oil spilled in one day. Similarly, a number of accidents with great damages to the environment and health were recorded in the past five decades.

The UN environment agency reported in 2011 that environmental and social damages caused by oil spillage in Niger Delta are no longer irreversible. In 2010 another environmental disaster occurred in Gulf of Mexico where more than 4.9 million barrels of British Petroleum Company flooded into the water. These two examples show the need to be careful with the oil production worldwide and that environmental disasters are of concern to each individual. It therefore requires local and international awareness of the consequences of oil spillages to human life and to the environment. Oil companies at local or international level are required to meet fundamental obligations:

- Sustainable development. That is, the “development that meets the needs of the present and the needs of the future generations”<sup>10</sup> to come.
- Environment, economic and social development must friendly co-exist together. In order to realize these goals the following criteria are to be absorbed:

(1) In economic area: Oil production should be considered as sustainable if it resulted in financial and benefits to local institutions and produces positive balance of payments and technology transfer to the host state. The production of oil must contribute to the general improvement of the economic activities of the host country and economic development as a whole, whereby growing of clean and effective technologies is part of the growth.

(2) Oil exploitation must meet social criteria: That is, the production must result in greater improvement of equity and quality of the life in the host country. As part and parcel of the social development and alleviation of the suffering of the population by providing necessary social infrastructure, water supply, improving transportation system, reduction of dependency on fossil fuels, improved health facilities and power supply. If those areas mentioned

are met, the oil exploitation should be considered as sustainable development<sup>11</sup>.

(3) Environmental criteria: The environmental criteria is considered as the most important criteria which needs to be met by the International Oil Companies if they are to meet their obligations on environmental sustainable development.

That is, the exploitation of oil should be handled in such a way that is preventive and precaution in the use of environment.

To that effect “The Rio Declaration on Environment and Development declares that: “Man...bears a solemn responsibility to protect and improve the environment for the present and future generations”. Article 192 of the law of the Sea Convention (LOS) places obligations on states to “protect and preserve the marine environment”. This includes a duty to prevent, reduce, and control pollution of the marine environment from any source”<sup>12</sup>.

According to Olawuyi, International law urges that oil production should not in any way result into pollution or environmental damages in the host country<sup>13</sup>. Olawuyi described that oil spills which resulted into damages to environmental pollution in the host country is a violation of national and international laws and regulations. The cases in point are those cases in Niger Delta where more than 3,000 people were reported dead because of oil spillage and in the Gulf of Mexico. In the case of the Niger Delta accident, many local communities were destroyed; drinking water was contaminated as well as the environment<sup>14</sup>.

### What Local Content and Corporate Social Responsibility Obligations are expected of the IOC?

We now discuss the role of Local Content which is referred to development of local skills, technological transfer as well as utilization of local workforce and local products<sup>15</sup>. In the recent years, local content

is becoming more and more applicable in the oil sector. It is becoming part and parcel of Oil and Gas Contracts. Experts in this industrial sector project that 90 % of hydrocarbon production will come from so-called developing regions such as Africa, India and Latin America and that most of those regions have or will introduce local content as a requirement into regulatory frameworks which will rule the development of natural resources.

The objectives of these requirements are to create jobs for local community, promote local business as well as trying to acquire skills and technology in this sector. Moreover, this development in local content regime is at least positive in viewpoint of the government. But it poses risks for companies which are engaged in oil and gas business as follows:

1. Operators and international contractors may not meet unrealistic expectations from the country of operations and from the local communities.
2. Development of local business and employees may take longer than expected and can therefore cause problems with the host country<sup>16</sup>.

Although local content is adopted in many countries as part of a requirement for oil and gas production, its implementation may differ from one country to another. The success of the local content programs is said to depend on two key strategies: effective internal organization and coordination<sup>17</sup>.

1. The IOC is expected to adopt a number of international best practices in Local Content and Corporate Social Responsibility. That is IOC should adopt what Fortune Oil Company adopted as its policy which is cited here: "No Accident; No Harm to People; No Damage to the Environment. We will comply with all regulatory and company health, safety, security and environmental (referred to as 'HSE' requirements) and will continually improve our HSE performance"<sup>18</sup>. This is a voluntary arrangement from the company. It helps in fighting against all issues of concern in exploitation of oil and gas resources
2. Building capacity of local community is absolutely important

3. Building institutional capacity of local community and make them efficient actors
4. Develop local industry infrastructure for holistic development in the country of operation
5. Develop local industry to the standard of International Oil Companies
6. Support deployment of local goods and services across the entire value chain of the industry. This is to assist development of robust indigenous oil and gas industry
7. Enter into joint operating and joint ventures between International Oil Companies and local companies. This can be done in form of subsidiary<sup>19</sup>

## Corporate Social Responsibility in Oil Industry

The United Nations Industry Development Organization (UNIDO) defines Corporate Social Responsibility as a management concept whereby companies integrate social and environmental concerns in their business operations while interacting with their stakeholders. CSR is generally understood as being the way through which a company achieves a balance of economic, environmental and social imperatives ("Triple-Bottom-Line- Approach"), while at the same time addressing the expectations of shareholders and stakeholders<sup>20</sup>.

Such an involvement in society of operation can also make a valuable contribution to poverty reduction and can enhance the reputation of a company and strengthen its brand.

Some of the areas of focus on CSR include:

- Environmental management, eco-efficiency, responsible sourcing, stakeholder engagement, labour standards and working conditions, employee and community relations, social equity, gender balance, human rights, good governance, and anti-corruption measures.

According to the UNIDO, if the CSR concept is well implemented it can bring along a variety of competitive advantages such as; enhanced access

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and reputation, enhanced customer loyalty, better decision making and risk management processes<sup>21</sup>. Protecting and sustaining communities is of the utmost importance for any host country. An IOC's obligation to a host country should be built around the United Global Compact's Ten Principles and a host country should ensure that its legislation is aligned. The host country regulations and policies should include human rights, labour and environment as well as anti-corruption.

As a host country, it would be expected that the IOC had established and proven a set of core values and a method of ensuring that its company's employees understand and implement these in accordance to international law and the national laws that they are operating. As part of the CSR, the company should present a strategic risk assessment to the authority of the host country and should be part and parcel of an application process.

### Does CSR have any Risk?

Definitely, it does. An IOC will have a good understanding of what is required to sustain its CSR in its home country, but the risks of failing to maintain these CSR's in a developing country can create numerous obstacles.

A company doing business in a foreign country will always carry risk. The intention is to make a profit and give back to society without harming

to capital and markets, increased sales and profits, operational cost savings, improved productivity and quality, efficient human resource base, improved brand image

the environment, the risks lie in how this is to be performed. The key risks that an IOC would be facing are related to human rights, pollution, anti-corruption and the non-financial loss of reputation. Human rights are associated with organizations such as Amnesty International and the United Nations. Below are just a few examples of what some of the risks could include:

- The safety of both employees and surrounding communities.
- The use of slave and child labor.
- Violation of a host country's or communities cultural or religion and customs.
- Pollution to the environment whether through an IOC's breach or inflicted through sabotage, is always a risk. The pollution of water, farming grounds and toxic air of the host country's communities has long term affects. By investing in good business practice and management in this area, the IOC should not see this as an operational expense but as a solid and long term investment for the future.

The IOC should know its stakeholders and understand their objectives and how it will both communicate and invest into this business and host countries' objectives. By knowing and understanding the risks involved when doing business, a company stands a better chance of minimizing its financial and non-financial Corporate Social Responsibility risks<sup>22</sup>.

### Petroleum Regulatory Arrangements

Oil and Gas Companies face a number of challenges with the regulations on environment. Strict regulations in this sector may impose limits to business expansion. It may limit growth and establish new enterprises. Regulations on environment may significantly add costs of doing business and should therefore be balanced<sup>23</sup>. Government should contribute to the stability of the business environment. One should not however underestimate the oil industry risks.

Risks within the oil industry are numerous and according to Ernst & Young 2011 Global Report and the 2012 follow up report, the number one

risk in all industries is regulation and compliance. The oil business is a dangerous industry and with each undesired event comes tighter controls through new legislation and regulations. For an IOC, incorporating and ensuring compliance generally means a change on how they govern their company<sup>24</sup>.

### Oil Company and Health, Safety and Environmental Standards

Should oil Company apply the same health, safety and environmental standards across all the countries they operate in or should they tailor their practices to regulatory environment of the relevant host country? Because some of the host countries do have limited laws or existing laws and policies not implemented because of lack of trained personnel in Oil and Gas industry; some international Oil Companies take advantage of this situation.

A licensed Operator should have implemented within its policies and procedures based on the best practice. By “best practice” we refer to the method that has shown positive results and therefore considered as a benchmark internationally. It is therefore necessary to urge for application of local and

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international laws, conventions and policies in this field.

An IOC’s safety and operational practices should encompass and have incorporated laws and regulations of the host country as well. Local

laws are primarily important because in most cases they are part and parcel of the Production Sharing Agreements or Contracts. The safety and operational policies and procedures should contain provisions for “human life, health and welfare, as well as the environment and financial investment. The IOC must also show that it understands and has implemented reporting practices as required both on an international and national level, especially in regards to hazards, accidents and other areas that follow the guidelines of good oilfield practice. Oil and gas companies should tailor their Health, Safety and Environment (HSE) standards to incorporate all legislation and regulations as dictated by the various governments where the IOC operates. In addition, those standards are to be applied to all of its transnational business with the understanding that it incorporates the most stringent legislation and regulations of national law and international laws as well as laws and regulations of the host country. Things should not be left for the IOC to decide what is good enough.

It happens in many countries that major players in the oil and gas industry entered into an emerging economic country and left the communities and the environment in a devastated state<sup>25</sup>. That is why most of the IOC are no-compliance to regulations and policies they signed with the host government.

### Conclusions and Recommendations

We discussed a number of issues on the exploration and production of oil and gas. We have recommended the introduction and implementation of laws, regulations and policies in line with international laws and conventions such as that of United Nations. However, we have seen that in many “Emerging Economies” there are challenges in provision of laws on oil exploitation and production.

It is therefore recommended that oil companies should voluntarily apply Best Practice in the host country as well. We have seen in the example of Niger Delta and Gulf of Mexico that oil and gas exploration and production can cause great

environmental disasters which as a result affect health, culture and economic as well as social structure of local communities in and around the area of immediate operation. It is worth to note that oil companies and groups associated to this industry, especially those international oil companies working in emerging economies have recognized the need to voluntarily improve their performance in the field of environment<sup>26</sup>.

“Oil Companies and industry groups have also recognized that international oil companies operating in emerging economies with inadequate environmental laws should adopt best practice. For example, members of the American Petroleum Institute are responsible for “obeying all laws and best practice” as part of the pledge to a program of continuous health, safety and environmental improvements, while the 1997 Environmental Policy of Australian Petroleum Production and Exploration Association (APPEA) encourages and supports member companies to “comply, at a minimum, with applicable laws, regulations, standards and guidelines for the protection of the environment and their absence to adopt the best practicable means to prevent or minimize adverse environmental impacts”<sup>27</sup>.

The above cited examples show that some companies can take Corporate Social Responsibility into their own hand seriously. It should also be recommended that exploitation and production of oil industry in the emerging countries be regulated and that technical staff be trained for this purpose to file the gap of lawless.

## End Notes

<sup>1</sup>Robert L. Hirsch, Roger Bezdek, Robert Wendling, Peaking of world oil production: Peaking, impacts, mitigation, & Risk Management (February 2005) p.8.

<sup>2</sup>Patson W. Arinaitwe, Ibid 3

<sup>3</sup>United Nations Human Rights, Office of Human Right Commissioner, ‘Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’

Framework(2011),P.1

<sup>4</sup>UN, Ibid 4

<sup>5</sup><<http://www.businessteacher.org.uk/essays/accounting/international-oil-company-and-host-country.php>>accessed 2 January 2015

<sup>6</sup>Ministry of Energy and Mineral Development(MEMD) “National Oil and Gas Policy for Uganda”, February(2008)p. Xi

<sup>7</sup>See MEMD, Ibid.

<sup>8</sup>IPIECA ‘Local Content Strategy’ A Guidance document for the Oil and Gas Industry, available <<http://www.ipieca.org>> accessed 31 December 2014.

<sup>9</sup>Patson W. Arinaitwe,P.4.

<sup>10</sup>Danilola S. Olawuyi, Legal and Sustainable Development Impact of Major Oil Spills (2012) p.1-2.

<sup>11</sup>Danilola S. Olawuyi, Legal and Sustainable Development Impact of Major Oil Spills (2012) p.3-4

<sup>12</sup>Olawuyi,Ibid 4

<sup>13</sup>Olawuyi, Ibid 4

<sup>14</sup>Olawuyi, Ibid 4.

<sup>15</sup>See “Local Content in the Oil and Gas Industry”,< <http://www.oilandgasiq.com/strategy-management-and-information/articles/local-content-in-the-oil-and-gas-industry>> accessed 02 January 2015

<sup>16</sup>IPIECA “Local Content Strategy: A guidance document for the oil and gas industry”, (2011)p.3

<sup>17</sup>IPIECA, Ibid, 2011, p.20.

<sup>18</sup>Fortune Oil HSE Policy, 25th August 2011, p.1.

<sup>19</sup>See Benjamin Owusu-Ansah “The Role of GNPC in Local Content Development in Ghana ‘s Oil and Gas Industry” At the 5th Ghana Summit Conference and Exhibition(2013),1-20.

<sup>20</sup>UNIDO <[www.unido.org/CRS.html](http://www.unido.org/CRS.html)> accessed 29 December 2014

<sup>21</sup>See UNIDO at <[www.unido.org/CRS.html](http://www.unido.org/CRS.html)> accessed 29 December 2014.

<sup>22</sup>IPIECA, Ibid 18-19.

<sup>23</sup>IPIECA, Ibid 6.

<sup>24</sup><<http://www.businessteacher.org.uk/essays/accounting/international-oil-company-and-host-country.php>> accessed 2 January 2015.



<sup>25</sup> <<http://www.businessteacher.org.uk/essays/accounting/international-oil-company-and-host-country.php>> accessed 2 January 2015

<sup>26</sup> Alexandra S. Wawryk, International Environmental Standards in the oil Industry: Improving the operations of transnational oil companies in Emerging Economies

<sup>27</sup> Alexandra S. Wawryk, International Environmental Standards in the oil Industry: Improving the operations of transnational oil companies in Emerging Economies <<http://www.dundee.ac.uk/cepmlp/gateway/index.php?news=28192>> accessed 30 December 2014.

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14. *Fortune Oil HSE Policy, 25th August 2011, 1-3.*



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